

STATEMENT AND RESOLUTION ON THE DEFINITION OF DEATH*

THE COMMITTEE ON PUBLIC HEALTH
THE COMMITTEE ON MEDICINE IN SOCIETY

The New York Academy of Medicine
New York, New York

BACKGROUND

“A dead brain in a body whose heart is still beating is one of the more macabre products of modern technology. During the past thirty years techniques have developed that can artificially maintain ventilation, circulation and elimination of waste products of metabolism in a body whose brain has irreversibly ceased to function.”¹ As pointed out by an independent group of medical consultants to the President’s Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, “When respiration and circulation have irreversibly ceased, there is no need to assess brain functions directly. When cardiopulmonary functions are artificially maintained, neurological criteria must be used to assess whether brain functions have ceased irreversibly.”² The traditional view under the common law as summarized by *Black’s Law Dictionary*, 4th edition, defined death as “a total stoppage of the blood and the cessation of the animal and vital functions consequent thereon, such as respiration, pulsation, etc.”³

Developments in medical technology have demonstrated that the traditional view is inadequate because it is incomplete. Breathing and the beating of the heart are controlled by centers in the brain stem. A person whose entire brain, including the brain stem, has ceased to function irreversibly is not terminally ill but dead. Physiologically it is as if the person had been decapitated. Death of the brain is to be differentiated from the irreversible loss of consciousness which is called the vegetative state. The report of the President’s Commission entitled *Defining Death, A Report on the Medical, Legal and Ethical Issues in the Determination of Death* has reviewed these issues in detail.⁴

*Prepared by the Joint Committee on the Care of Patients with Terminal Illness. Approved by the Committee on Medicine in Society on May 21, 1984, by the Executive Committee of the Committee on Public Health on May 23, 1984 and by the Council of the New York Academy of Medicine on May 23, 1984.

A Uniform Determination of Death Act has been approved by the President's Commission, the American Medical Association, the American Bar Association, the National Conference of Commissioners on Uniform State Laws, the American Academy of Neurology, and the American Electroencephalographic (EEG) Society.⁵ The proposed uniform statute states: "An individual who has sustained either 1) irreversible cessation of all functions of circulatory and respiratory function, or 2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards."⁵ This proposed definition implies the need for full social and legal acceptance of the termination of respiratory and cardiopulmonary support when the above criteria have been met. Lack of such legislation in New York State creates serious medical, psychological, and ethical problems and leads to appeals to various judicial sources with risks of continued uncertainty.

"Ventilating corpses"¹ cause great pain and trauma for families and create serious problems of morale among those with responsibility for the care of such patients. Furthermore, as Germain Grisez and Joseph M. Boyle, Jr., point out, "[A] correct definition of death, if it would eliminate some false classifications of dead individuals [as being] among the living could eliminate some of the pressure for legalizing euthanasia—in this case, pressure arising from a right attitude toward individuals really dead and only considered alive due to conceptual confusion."⁶

The New York Academy of Medicine agrees with the conclusions of the President's Commission that legislative efforts should deal with the conceptual definition of death in general terms and not with specific medical standards of criteria which are subject to change.⁸ Specific medical criteria which reflect currently accepted standards of medical practice for the diagnosis of irreversible cessation of cardiopulmonary and brain functions have been prepared by a group of outstanding medical consultants to the Commission and have been set forth in Appendix F of *Defining Death*.⁸ These current guidelines are acceptable to the New York Academy of Medicine.

RESOLUTION

WHEREAS, the Committee on Public Health and the Committee on Medicine in Society of the New York Academy of Medicine have engaged in serious and long-standing consideration through their Joint Committee on the Care of Patients with Terminal Illness and have carefully reviewed

the medical, legal, and ethical dimensions of the problem and the implications of a statutory definition of death that would include brain and brain stem death, and

WHEREAS, the New York Academy of Medicine supports the findings of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research as detailed in its report *Defining Death* and endorses hearings on the broadest possible scale with all interested groups for the purpose of clarifying the issues involved,

THEREFORE BE IT RESOLVED, that the New York Academy of Medicine strongly urges the adoption by the New York State Legislature and approval by the governor of the proposed Uniform Determination of Death Act.

The Joint Committee on the Care of Patients with Terminal Illness was established in 1980 by the Committee on Public Health and the Committee on Medicine in Society of the New York Academy of Medicine. The Statement and Resolution on the Definition of Death was approved by the Committee on Medicine in Society on May 21, 1984, by the Executive Committee of the Committee on Public Health on May 23, 1984 and by the Council of the New York Academy of Medicine on May 23, 1984.

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REFERENCES

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2. President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research:

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3. *Black's Law Dictionary* (4th Edition). St. Paul, Minnesota, West, 1968, pp. 448.
 4. President's Commission, *op. cit.*, *passim*.
 5. *Ibid.*, p. 73.
 6. Grisez, G. and Boyle, J. M., Jr.: *Life and Death with Liberty and Justice: A Contribution to the Euthanasia Debate.* Notre Dame, Indiana, University of Notre Dame Press, 1979, pp. 61.
 7. President's Commission, *op. cit.*, p. 1.
 8. President's Commission, *op. cit.*, Appendix F, "Guidelines for the Determination of Death," pp. 160-66.